

IN THE UNITED STATES DISTRICT COURT  
FOR THE DISTRICT OF HAWAII

G., PARENT AND NEXT FRIEND OF	)	Civ. No. 08-00551 ACK-BMK
K., A DISABLED CHILD, ET AL.,	)	Civ. No. 09-00044 ACK-BMK
	)	(Consolidated)
Plaintiffs,	)	
	)	
vs.	)	
	)	
STATE OF HAWAII, DEPARTMENT OF	)	
HUMAN SERVICES, ET AL.,	)	
	)	
Defendants.	)	
	)	
-----	)	
G., PARENT AND NEXT FRIEND OF	)	
K., A DISABLED CHILD, ET AL.,	)	
	)	
Plaintiffs,	)	
	)	
vs.	)	
	)	
UNITED STATES DEPARTMENT OF	)	
HEALTH AND HUMAN SERVICES, ET	)	
AL.,	)	
	)	
Defendants.	)	
	)	

SCHEDULING ORDER REGARDING EVERCARE'S MOTION FOR PARTIAL SUMMARY  
JUDGMENT ON THE ISSUE OF PROVIDER NETWORK ADEQUACY

On November 20, 2009, Intervenor United Healthcare Insurance Company d/b/a Evercare ("Evercare") filed a motion for partial summary judgment regarding Plaintiffs' claim that the QExA Contractors have inadequate provider networks, in contravention of 42 U.S.C. § 1396u-2(b)(5) ("Evercare's Provider Networks MSJ").

The hearing on Evercare's Provider Networks MSJ is currently scheduled for February 11, 2010, at 10 a.m.

Relatedly, on January 7, 2010, Evercare filed a motion in limine to exclude purported expert testimony of Arleen D. Meyers, M.D., J.D., M.P.H. ("Meyers Motion in Limine").

On January 19, 2010, Magistrate Judge Barry M. Kurren issued an amended scheduling order requiring that Plaintiffs' expert witness reports be filed by February 15, 2010. Because the amended scheduling order issued by Judge Kurren set the due date of Plaintiffs' expert witness reports for February 15, 2010, the Court issued an order on January 25, 2010, rescheduling the hearing on the Meyers Motion in Limine to March 8, 2010.

However, Evercare, in its reply filed on January 28, 2010, to Plaintiffs' Opp. Mem., argues that "[b]ecause Plaintiffs continue to rely on the purported 'expert reports' already submitted by Dr. Meyers, this Court must rule on the admissibility of her 'expert' testimony submitted to date in the context of this Motion . . . ." Evercare Reply at 18 n.18.

Accordingly, the hearing on Evercare's Provider Networks MSJ shall be moved to March 8, 2010, the same day the Court is scheduled to hear the Meyers and Leverty Motions in Limine. Intervenors Evercare and WellCare of Arizona, along with the State Defendants, may submit supplemental briefing addressing any impact that Meyers' final expert report may have on

Evercare's Provider Networks MSJ, if any such report is filed, by February 22, 2010, and Plaintiffs may submit any response by February 25, 2010.

IT IS SO ORDERED.

DATED: Honolulu, Hawai'i, February 4, 2010.



*Alan C. Kay*  
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Alan C. Kay  
Sr. United States District Judge

G. v. Hawai'i, Dep't of Human Servs., Civ. Nos. 08-00551 ACK-BMK & 09-00044  
ACK-BMK: Scheduling Order Regarding Evercare's Motion for Partial Summary  
Judgment on the Issue of Provider Network Adequacy